



**United States Bankruptcy Court
for the District of Oregon**

Albert E. Radcliffe, Judge
Virginia H. Denney, Judicial Assistant
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November 9, 2005

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RE: TROUTMAN INVESTMENT COMPANY; Case No. 602-69650-aer11
Creditors' Committee v. Ron Troutman; Adversary Proceeding No. 03-6417-aer
Plaintiff's Motion for Summary Judgment

Counsel:

This letter is intended to announce my findings of fact and conclusions of law on the above-referenced motion. The motion seeks judgment on Plaintiff's first two claims regarding an alleged \$97,816 owed by Defendant on a "House Account."

On a motion for summary judgment, the moving party has the burden to establish the absence of a material issue of fact for trial. FRCP 56(c). The substantive law governing a claim or defense determines whether a fact is material. *T.W. Elec. Service, Inc. v. Pacific Elec. Contractors Ass'n*, 809 F.2d 626, 630 (9th Cir. 1987). Material facts are such facts as may affect the outcome of the case. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248, 106 S.Ct. 2505, 2510, 91 L. Ed. 2d 202, __ (1986).

All inferences drawn from the underlying facts must be viewed in the light most favorable to the nonmoving party. *Simone v. Manning*, 930 F. Supp. 1434 (D. Or. 1996). When different ultimate inferences can be reached summary judgment is not appropriate. *Id.*

From a review of the record, and in particular, Defendant's affidavit (and the exhibits attached thereto) and Defendant's deposition excerpt in opposition to the motion, I find a genuine issue of material fact exists as to whether or not Defendant is liable on the House Account, and the amount of that liability, if any. As such, Plaintiff's motion will be denied.

Very truly yours,

A handwritten signature in cursive script that reads "Albert E. Radcliffe".

ALBERT E. RADCLIFFE
Bankruptcy Judge

AER:vhd